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PATENT

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Applicant : David Duhl et al.
Application No. : 09/602,597
Filed : June 22, 2000
For : HUMAN CHROMOSOME 16 PLASMOLIPIN-LIKE
POLYPEPTIDE

Examiner : Sandra Wegert
Art Unit : 1647
Docket No. : 59516-217/PP-01568.002
Date : September 17, 2003

Attn: Office of Petitions
Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

STATEMENT

On May 31, 2002, the Examiner issued an Advisory Action indicating that the declaration under 37 C.F.R. §1.132 filed on May 2, 2002, did not place the application in condition for allowance. On October 17, 2002, applicants conducted a personal interview with Examiner Wegert and SPE Elizabeth Kemmerer. The Examiners suggested filing further evidence in support of patentability. This evidence was filed on November 4, 2002. In the response, on November 4, 2002, applicants filed a response under 37 C.F.R. § 116, with an affidavit under 37 C.F.R. §1.132. Applicants believed that, following the personal interview on October 17, 2002, the Examiner would consider the November 4, 2002 response. However, on February 13, 2003, an Advisory Action was mailed, signed by an SPE who had not participated in the personal interview, nor in the arguments and evidence in the response. Instead, the proposed amendment was not entered.

The present Preliminary Amendment addresses the issues of the non-entered response filed on November 4, 2003. The October 17, 2002 interview and the November 4, 2002 filing were within the time limit set by filing a Notice of Appeal on May 2, 2002. If the

Examiner had acted on the case in a timely matter, it would not have gone abandoned. The failure to act was first brought to the applicants' attention on February 13, 2003, when the Office issued an Advisory Action that clearly indicated that the personal interview and the ensuing November 4, 2002 response had not been entered.

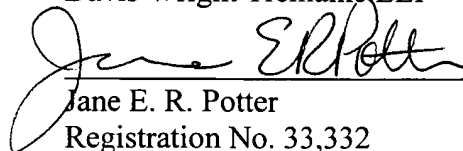
Subsequently, a Notice of Abandonment issued on March 11, 2003. Since that time, applicants have investigated why the November 4, 2002 submission was not considered, despite assurances at the October 17, 2002 personal interview that such new evidence would be considered.

In a telephone conference on April 21, 2003, the Examiner indicated that the Advisory Action and subsequent Notice of Abandonment were sent before she had been given a chance to fully consider the November 4, 2002 amendment in the context of the October 17, 2002, personal interview.

The above-referenced application was abandoned due to procedural confusion with the Patent Office.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7650.

Respectfully submitted,
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